

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK  
225 CADMAN PLAZA EAST  
BROOKLYN, NEW YORK 11201

FILED  
CLERK'S OFFICE

APR 13 - 3 P 1:17

ROBERT C. HEINEMANN  
CLERK

U.S. DISTRICT COURT  
EASTERN DISTRICT OF MASS.

JAMES GIOKAS  
CHIEF DEPUTY

DATE: 4/5/05

RE: U.S.A. vs. Bundu

Magistrate Docket Number : 05 M 451

Your District Docket Number : 05 M 1076

Dear Sir/Madam:

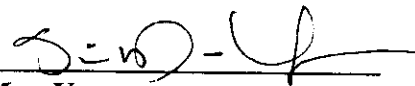
Enclosed please find copies of our entire file in the above captioned

Rule 40 Removal proceeding regarding defendant :

Francoise Ngele Bundy

Please acknowledge receipt of same by mailing back to our office the  
enclosed copy of this letter signed and dated.

Respectfully,



Sui-May Yuen  
Criminal Arraignments  
(718) 260-2620

ACKNOWLEDGMENT \_\_\_\_\_

DISTRICT \_\_\_\_\_

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK  
225 CADMAN PLAZA EAST  
BROOKLYN, NEW YORK 11201

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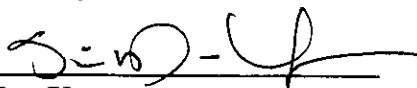
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ACKNOWLEDGMENT \_\_\_\_\_

DISTRICT \_\_\_\_\_

CLOSED

**U.S. District Court  
Eastern District of New York (Brooklyn)  
CRIMINAL DOCKET FOR CASE #: 1:05-mj-00451-RML-ALL  
Internal Use Only**

Case title: USA v. Bundu

Date Filed: 04/04/2005

Assigned to: Magistrate-Judge Robert  
M. Levy

**Defendant**

**Francoise Ngele Bundu (1)**  
*TERMINATED: 04/04/2005*

represented by **Florian Miedel**  
Federal Defender Division  
16 Court Street  
Brooklyn, NY 11201  
718-330-1208  
Fax: 718-855-0760  
Email: florian\_miedel@fd.org  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**  
*Designation: Public Defender or  
Community Defender Appointment*

**Pending Counts**

None

**Disposition**

**Highest Offense Level (Opening)**

None

**Terminated Counts**

None

**Disposition**

**Highest Offense Level (Terminated)**

None

**Complaints**

None

**Disposition**

DAVID 4/5 20 05  
ROBERT C. HEINEMANN

SMW CLERK

4/5/2005 10:10 AM

**Plaintiff**

USA

represented by **Charles Kelly**  
 United States Attorneys Office  
 One Pierrepont Plaza, 14th Floor  
 Brooklyn, NY 11201  
 718-254-6038  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

Date Filed	#	Docket Text
04/04/2005	<u>1</u>	RULE 5 AFFIDAVIT /Removal to the District of Massachusetts as to Francoise Ngele Bundu. (Yuen, Sui-May) (Entered: 04/05/2005)
04/04/2005	<u>2</u>	Minute Entry for proceedings held before Robert M. Levy :Initial Appearance in Rule 5(c)(3) Proceedings as to Francoise Ngele Bundu held on 4/4/2005 (Tape #05/65 (2507-3098).)AUSA Charles Kelly present. Dft present w/ counsel Florian Miedel. Dft arraigned on the removal complaint. No bail package presented. Order of commitment entered. Dft waived identity hearing. (Yuen, Sui-May) (Entered: 04/05/2005)
04/04/2005	<u>3</u>	WAIVER of Rule 5 Hearings by Francoise Ngele Bundu (Yuen, Sui-May) (Entered: 04/05/2005)
04/04/2005	<u>4</u>	COMMITMENT TO ANOTHER DISTRICT as to Francoise Ngele Bundu. Defendant committed to District of Massachusetts . Signed by Judge Robert M. Levy on 4/4/05. (Yuen, Sui-May) (Entered: 04/05/2005)
04/04/2005	<u>5</u>	CJA 23 Financial Affidavit by Francoise Ngele Bundu (Yuen, Sui-May) (Entered: 04/05/2005)
04/04/2005		***Case Terminated as to Francoise Ngele Bundu, ***Terminated defendant Francoise Ngele Bundu, (Yuen, Sui-May) (Entered: 04/05/2005)

JP:CPK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

457 M

- - - - -X

UNITED STATES OF AMERICA

REMOVAL TO THE DISTRICT  
OF MASSACHUSETTS

- against -

FRANCOISE NGELE BUNDU,

(Fed. R. Crim. P. 5)

Defendant.

- - - - -X

EASTERN DISTRICT OF NEW YORK, SS:

JOSEPH M. KINCAID, being duly sworn, deposes and states that he is a Special Agent with the Federal Bureau of Investigation ("FBI"), duly appointed according to law and acting as such.

Upon information and belief, on or about March 16, 2005, a warrant was issued by the United States District Court for the District of Massachusetts commanding the arrest of the defendant FRANCOISE NGELE BUNDU, pursuant to a criminal complaint charging international parental kidnapping in violation of Title 18, United States Code, Sections 1204.

The source of your deponent's information and the grounds for his belief are as follows:

1. In or about January, 2004, the defendant FRANCOISE NGELE BUNDU fled the United States to the Congo with her two minor children, Maya Bundu and Betoya Bundu.

2. The Probate and Family Court in Middlesex County, Massachusetts subsequently issued an order granting full custody

4/5

05

mm

of the children to the defendant's husband and ordered the defendant to return to the United States by March 6, 2004 with the children, which she failed to do.

3. On March 16, 2005, the defendant was charged in a complaint in the District of Massachusetss with international parental kidnapping in violation of Title 18, United States Code, Section 1204. A copy of the criminal complaint is annexed hereto.

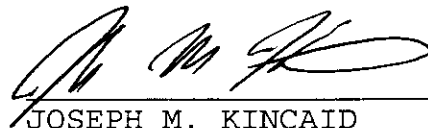
4. On March 16, 2005, a warrant for the arrest of the defendant was issued by United States Magistrate Judge Judith Gail Dein of the United States District Court for the District of Massachusetts. A copy of the warrant is annexed hereto.

5. On April 3, 2005 at or about 1:00 p.m., defendant arrived at JFK International Airport on Delta flight #119 from Paris, France. At that time, she was interviewed and arrested on the outstanding warrant attached hereto.

6. At the time of her arrest, the defendant FRANCOISE NGELE BUNDU was carrying a driver's license in the name of FRANCOISE NGELE BUNDU and presented a Congolese passport in the name of FRANCOISE NGELE BUNDU. I have compared a photograph of the defendant previously provided to the FBI in connection with


this investigation and confirmed that they are the same person.

WHEREFORE, it is requested that the defendant FRANCOISE NGELE BUNDU be removed to the District of Massachusetts so that she may be dealt with according to law.



JOSEPH M. KINCAID  
Special Agent  
Federal Bureau of Investigation

Sworn to before me this  
4th day of April 2005



UNITED STATES MAGISTRATE JUDGE  
EASTERN DISTRICT OF NEW YORK

AO 442 (Rev. 5/83) Warrant for Arrest

# United States District Court

DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

V.

FRANCOISE NGELE BUNDOU

## WARRANT FOR ARREST

CASE NUMBER: 05M-1076-JBD

To: The United States Marshal  
and any Authorized United States Officer

YOU ARE HEREBY COMMANDED to arrest FRANCOISE NGELE BUNDOU

Name

and bring him or her forthwith to the nearest magistrate judge to answer a(n)

☐ Indictment ☐ Information ☒ Complaint ☐ Order of court ☐ Violation Notice ☐ Probation Violation Petition

charging her with (brief description of offense)  
International Parental Kidnapping

In violation of  
Title

United States Code, Section 1204

JUDITH GAIL

Name of Issuing Officer

Signature of Issuing Officer

UNITED STATES MAGISTRATE JUDGE

Title of Issuing Officer

3/16/05 Boston, MA

Date and Location

Bail fixed at \$

by

Name of Judicial Officer

### RETURN

This warrant was received and executed with the arrest of the above-named defendant at

DATE RECEIVED

NAME AND TITLE OF ARRESTING OFFICER

SIGNATURE OF ARRESTING OFFICER

DATE OF ARREST

This form was electronically produced by EDS Federal Forms, Inc.

MAR 17 2005 10:33 FR USMS D-MR WARRANTS 617 748 2579 TO 8161722356025 P.01



AO 91 (Rev. 5/85) Criminal Complaint

# United States District Court

DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

v.

FRANCOISE NGELE BUNDU

## CRIMINAL COMPLAINT

CASE NUMBER: 05M-1076-JED

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about January 15, 2004 in Middlesex county, in the

District of Massachusetts defendant(s) did, (Track Statutory Language of Offense)  
remove a child from the United States outside the United States with intent to obstruct the lawful exercise of parental rights

in violation of Title 18 United States Code, Section(s) 1204

I further state that I am a SA Special Agent, FBI and that this complaint is based on the following facts:

See attached Affidavit of FBI Special Agent Tamara N. Harty

Continued on the attached sheet and made a part hereof: Yes No

SA Tamara N. Harty  
Signature of Complainant

Sworn to before me and subscribed in my presence.

03-16-2005

Date

at

Boston, Massachusetts

City and State

JUDITH GAIL DEIN  
UNITED STATES MAGISTRATE JUDGE

Name & Title of Judicial Officer

Judith Gail Dein  
Signature of Judicial Officer

This form was electronically produced by Elite Federal Forms, Inc.

6511-A-76-761

**AFFIDAVIT**

I, Tamara N. Harty, Special Agent, Federal Bureau of Investigation (FBI), being duly sworn upon my oath, depose and state the following:

1. I am a Special Agent with the Federal Bureau of Investigation (FBI) and have been so employed for approximately two years. I have been assigned to the Boston Division since February, 2003. I am currently assigned to the Violent Crimes Task Force, which comprises personnel of the FBI, the Massachusetts State Police, and the police departments of Boston, Malden and Cambridge. The task force investigates crimes aboard aircraft, racketeering activity, human trafficking and kidnappings (international and national). I am the Crimes Against Children Coordinator for the Boston Division of the FBI and have attended several training sessions sponsored by the National Center for Missing and Exploited Children (NCMEC).

2. I am aware that Title 18, United States Code, Section 1204, makes it a federal criminal offense to remove a child from the United States or retain a child who has been in the United States outside the United States with intent to obstruct the lawful exercise of parental rights. Having so stated, I make this affidavit in support of a complaint charging an individual named Francoise Ngele Bundu ("Francoise Bundu") with violation of that statute.

3. The facts asserted in this affidavit are based on my

own investigation and/or on information provided to me by others connected with the investigation. In submitting this affidavit, however, I have not included each and every fact known to me about the investigation, but only those facts that I believe are sufficient to support a finding of probable cause.

4. In 1999, Benoit Ngedi Bundu ("Benoit Bundu") and Francoise Ngele Bundu married; both are originally from the Congo. On October 30, 2003, Francoise Bundu gave birth to twins, Maya Nsimba Bundu and Betoya Nzuzi Bundu. The Bundus were residing in Cambridge, Massachusetts at the time of the birth of the children.

5. The Bundus had been experiencing marital problems since shortly after their marriage, however, and they separated in late 2003. Francoise Bundu remained in the couple's Cambridge residence with the children while Benoit Bundu moved out and stayed with friends and at various hotels.

6. As of January 14, 2004, the Bundus were in the process of divorcing and resolving custody issues relating to the children. The case was before the Probate and Family Court in Middlesex County. On or about that date, the court issued an order which, among other things, granted Francoise Bundu permission to travel to the Congo with the children, from on or around February 1, 2004 to on or about March 1, 2004, to visit with family. The court imposed several restrictions upon

Francoise Bundu, however. She was required to provide Benoit Bundu with the children's itinerary for the trip to the Congo, evidence that plane tickets had been purchased, copies of the children's passports, and the address and telephone in the Congo where she could be reached. The order also required Francoise Bundu to allow Benoit Bundu's family in the Congo to visit with their children while they were in the Congo.


7. On or about January 15, 2004, and in violation of the court order, Francoise Bundu fled the United States with the children. Also notwithstanding the court's order, Francoise Bundu did not provide Benoit Bundu with any information regarding her destination or how she could be reached.

8. On or about March 3, 2004, Francoise Bundu's counsel in the divorce case represented to the court that Francoise Bundu was in Belgium. The court then granted sole legal and physical custody of the children to Benoit Bundu and issued an order requiring Francoise Bundu to return to the United States before 2:00 p.m. on March 5, 2004. She did not comply with the court's order. Instead, her counsel submitted a motion seeking to restore custody of the children to her, and presented the court with an airline itinerary demonstrating Francoise Bundu's intent to return to the United States with the children on Saturday, March 6, 2004. The court declined to give her custody of the children then, but set a hearing for Monday, March 8, 2004 to

review the issue further. The court also explicitly ordered that Francoise Bundu "deliver the children to the Court" on that day. However, Francoise Bundu did not appear with the children on that date or thereafter.

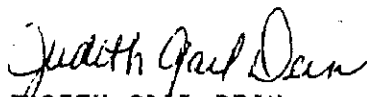
9. On January 19, 2005, the Interpol office in Kinshasa advised that Francoise, Maya and Betoya Bundu had been located at 46 Okito Avenue, Ngaliema Commune, the Congo. On or about February 15, 2005, the Interpol office sent another message advising that Francoise Bundu had attempted to travel to the United States but had returned to Belgium after experiencing illness and financial difficulties while traveling. I am aware from information obtained from Immigration and Customs Enforcement that Francoise Bundu now has an immigration hearing scheduled for April 5, 2005. Francoise Bundu has not contacted Benoit Bundu to notify him of this hearing, and it is believed that Francoise Bundu intends to attend the hearing and then quietly return to the Congo when the hearing has concluded.

10. Based on the foregoing, I believe there is probable cause to believe that on or about January 15, 2004, Francoise Bundu did move and travel in interstate and foreign commerce with the intent to obstruct the lawful exercise of parental rights, in violation of Title 18, United States Code, Section 1204.



TAMARA N. HARTY  
Special Agent, FBI

Sworn to before me this ~~16th~~ day of March 16, 2005, under the pains and penalties of perjury, at Boston, Massachusetts



JUDITH GAIL DEIN  
United States Magistrate Judge

**UNITED STATES DISTRICT COURT**  
EASTERN DISTRICT OF NEW YORK

**INITIAL APPEARANCE CALENDAR**

- 1) Magistrate Case Number: 05 451 M
- 2) Defendant's Name: Bundu Francoise Ngele  
(Last) (First) (M.I.)
- 3) Age: \_\_\_\_\_
- 4) Title: \_\_\_\_\_ Section(s): \_\_\_\_\_
- 5) Citizen of: \_\_\_\_\_ Needs: \_\_\_\_\_ Interpreter \_\_\_\_\_
- 6) Arrest Warrant Issued: \_\_\_\_\_ Date and time of arrest: \_\_\_\_\_

(Items 1-6 to be completed by AUSA/Arresting Officer)

- 7) Removal Proceeding: ☒ Yes \_\_\_ No Other District: Dist. of Massachusetts
- 8) Name of Interpreter used today: \_\_\_\_\_ Language: \_\_\_\_\_
- 9) Arraignment on complaint held: ☒ Yes \_\_\_ No Date/Time: 4/4/05
- 10) Detention Hearing Held: \_\_\_\_\_ Bail set at: \_\_\_\_\_ ROR Entered: \_\_\_\_\_ POD Entered: ☒
- 11) Temporary Order of Detention Entered: \_\_\_\_\_ Bail Hearing set for: \_\_\_\_\_
- 12) (a) Preliminary Hearing set for: \_\_\_\_\_; or waived: \_\_\_\_\_  
(b) Removal Hearing set for: \_\_\_\_\_; or waived: \_\_\_\_\_  
(c) Status Conference set for: \_\_\_\_\_
- 13) ASSISTANT U.S. ATTORNEY: Charles Kelly
- 14) DEFENSE COUNSEL'S NAME: Florian Miedel  
Address: \_\_\_\_\_  
Bar Code: \_\_\_\_\_ CJA: \_\_\_\_\_ PDA: ☒ RET: \_\_\_\_\_  
Telephone Number: (\_\_\_\_) \_\_\_\_\_

15) ESR Tape #: 05, 65 (2507-3098)

- 16) \_\_\_\_\_ Defendant was advised of bond conditions by the Court and signed the bond.  
\_\_\_\_\_ Surety (ies) were sworn and advised of bond obligations by the Court and signed the bond.  
\_\_\_\_\_ Additional surety (ies) to co-sign bond by \_\_\_\_\_

Other Comments/Rulings: Commitment to another district order entered  
Identity hearing waived

- 17) Complaint/Affidavit/Indictment unsealed: \_\_\_ Yes \_\_\_ No

SO ORDERED ON THIS \_\_\_\_\_ DAY OF 4/5, 2005

\_\_\_\_\_  
UNITED STATES MAGISTRATE JUDGE

(2)

UNITED STATES DISTRICT COURT

EASTERN

DISTRICT OF

NEW YORK

UNITED STATES OF AMERICA

V.

Francoise Ngele Bundu

WAIVER OF RULE 40 HEARINGS  
(Excluding Probation Cases)

CASE NUMBER: 05-451M

I, Francoise Bundu, understand that in the  
Eastern District of New York, charges are pending  
alleging violation of 18 U.S.C. § 1014 and that I have been  
arrested in this District and taken before a United States Magistrate Judge who informed me of the charge and of my right to:

(1) retain counsel or request the assignment of counsel if I am unable to retain counsel, (2) request transfer of the proceedings to this district pursuant to Rule 20, Fed. R. Crim. P., in order to plead guilty, (3) an identity hearing to determine if I am the person named in the charge, and (4) a preliminary examination (unless an indictment has been returned or an information filed) to determine whether there is probable cause to believe an offense has been committed by me, the hearing to be held either in this district or the district of prosecution.

I HEREBY WAIVE (GIVE UP) MY RIGHT TO A(N):

- ☒ identity hearing  
☐ preliminary examination  
☐ identity hearing and have been informed I have no right to a preliminary examination  
☐ identity hearing but request a preliminary examination be held in the prosecuting district

and, therefore, consent to the issuance of an order requiring my appearance in the prosecuting district where the charge is pending against me.

Defendant

Date

Defense Counsel



## UNITED STATES DISTRICT COURT

EASTERN

District of

NEW YORK

UNITED STATES OF AMERICA

V.

COMMITMENT TO ANOTHER  
DISTRICT

Francoise Ngele Bundu

## DOCKET NUMBER

District of Arrest

District of Offense

## MAGISTRATE JUDGE CASE NUMBER

District of Arrest

District of Offense

05-451 M

## CHARGES AGAINST THE DEFENDANT ARE BASED UPON AN

☐ Indictment☐ Information☒ Complaint☐ Other (specify) Violation of Conditions of release

charging a violation of

U.S.C. §

## DISTRICT OF OFFENSE

District of Massachusetts

## DESCRIPTION OF CHARGES:

Kidnapping

## CURRENT BOND STATUS:

- ☐ Bail fixed at \_\_\_\_\_ and conditions were not met
- ☐ Government moved for detention and defendant detained after hearing in District of Arrest
- ☐ Government moved for detention and defendant detained pending detention hearing in District of Offense
- ☐ Other (specify) \_\_\_\_\_

Representation: ☐ Retained Own Counsel ☒ Federal Defender Organization ☐ CJA Attorney ☐ NoneInterpreter Required? ☒ No ☐ Yes Language: \_\_\_\_\_

## DISTRICT OF NEW YORK

## TO: THE UNITED STATES MARSHAL

You are hereby commanded to take custody of the above named defendant and to transport that defendant with a certified copy of this commitment forthwith to the district of offense as specified above and there deliver the defendant to the United States Marshal for that District or to some other officer authorized to receive the defendant.

4/4/05

Date

United States Judge or Magistrate Judge

## RETURN

This commitment was received and executed as follows:

DATE COMMITMENT ORDER RECEIVED

PLACE OF COMMITMENT

DATE DEFENDANT COMMITTED

DATE

UNITED STATES MARSHAL

(BY) DEPUTY MARSHAL

## FINANCIAL AFFIDAVIT

IN UNITED STATES  
IN THE CASE OF☐ MAGISTRATE ☐ DISTRICT ☐ APPEALS COURT or ☐ OTHER PANEL (Specify below)

FOR

AT

LOCATION NUMBER

PERSON REPRESENTED (Show your full name)

Francoise Bundu

CHARGE/OFFENSE (describe if applicable &amp; check box →)

18 USC 1204

☒ Felony  
☐ Misdemeanor

- 1 ☒ Defendant—Adult  
 2 ☐ Defendant—Juvenile  
 3 ☐ Appellant  
 4 ☐ Probation Violator  
 5 ☐ Parole Violator  
 6 ☐ Habeas Petitioner  
 7 ☐ 2255 Petitioner  
 8 ☐ Material Witness  
 9 ☐ Other (Specify) \_\_\_\_\_

DOCKET NUMBERS

Magistrate

District Court

Court of Appeals

ASSETS

EMPLOY-  
MENTAre you now employed? ☐ Yes ☒ No ☐ Am Self Employed

Name and address of employer: \_\_\_\_\_

IF YES, how much do you

earn per month? \$ \_\_\_\_\_

IF NO, give month and year of last employment Feb. 04How much did you earn per month \$ 40,000If married is your Spouse employed? ☐ Yes ☐ No unsure

IF YES, how much does your

Spouse earn per month \$ \_\_\_\_\_

If a minor under age 21, what is your Parents or  
Guardian's approximate monthly income \$ \_\_\_\_\_OTHER  
INCOMEHave you received within the past 12 months any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends, retirement or annuity payments, or other sources? ☐ Yes ☒ No

IF YES, GIVE THE AMOUNT

RECEIVED &amp; IDENTIFY \$ \_\_\_\_\_

THE SOURCES \_\_\_\_\_

RECEIVED

SOURCES

CASH

Have you any cash on hand or money in savings or checking account ☒ Yes ☐ NoIF YES, state total amount \$ 800.00  
\$ 2200.00PROP-  
ERTYDo you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? ☐ Yes ☒ NoIF YES, GIVE VALUE AND \$  
DESCRIBE IT

VALUE

DESCRIPTION

OBLIGATIONS  
& DEBTS

DEPENDENTS

MARITAL STATUS

☐ SINGLE☐ MARRIED☒ WIDOWED☐ SEPARATED OR  
DIVORCEDTotal  
No. of  
Dependents  
2

List persons you actually support and your relationship to them

Mya - 17 monthsBetoya - 17 monthsDEBTS &  
MONTHLY  
BILLS(LIST ALL CREDITORS,  
INCLUDING BANKS,  
LOAN COMPANIES,  
CHARGE ACCOUNTS,  
ETC.)APARTMENT  
OR HOME:

Creditors

American Express Card

Total Debt

Monthly Payt.

\$ 200.00

\$

\$

\$

\$

\$

SIGNATURE OF DEFENDANT  
(OR PERSON REPRESENTED)

I certify the above to be correct.

Bundu Francoise 4/4/05